

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ANGELO FEARS	:	CASE NO: C-1-01-183
Petitioner	:	Judge Walter H. Rice
- vs -	:	Magistrate Judge Michael R. Merz
MARGARET BAGLEY, WARDEN	:	<u>MOTION TO SUPPLEMENT</u>
Respondent	:	<u>POST EVIDENTIARY</u>
		<u>HEARING MEMORANDUM</u>

Comes now the Petitioner, and moves this court for an order permitting him to supplement his post evidentiary hearing memorandum to incorporate the Sixth Circuit's Decision in *Hamblin vs. Mitchell*, decided December 29, 2003 and available on the Court's website, all for the reasons more fully set forth herein.

MEMORANDUM IN SUPPORT

Presently before the court is the case of *Fears v. Bagley*. The evidentiary hearing was conducted and the parties briefed the issues post-hearing.

Decided on December 29, 2003, was the case of *Hamblin v. Mitchell* which is instructive on the issues to be determined by this court. Petitioner prays the court permit him to file a supplemental post-hearing evidentiary memorandum in support of granting the Writ, based on the *Hamblin* decision. Counsel believes the supplemental memorandum can be filed by the close of business on January 16, 2004 and that the length of same will be ten pages or less.

For all the foregoing reasons, Counsel pray the court grant their motion to supplement their prior filings with the new caselaw from the Sixth Circuit.

Respectfully submitted:

s/Lawrence J. Greger
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was electronically served on Stephen Maher, Assistant United States Attorney.

s/Lawrence J. Greger
LAWRENCE J. GREGER